

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, original claims 1-38 have been replaced by new claims 39-71, which correspond to the original claims except that they have been drafted in more conventional form according to U.S. practice.

New claim 39 corresponds to original claim 1, but incorporates the subject matter of original claims 3 and 11.

New claim 47 corresponds to original claim 13, but incorporates the subject matter of original claim 18.

In view of the claim amendments, Applicant respectfully submits that all of the claim objections, as well as the rejection of the claims under the second paragraph of 35 U.S.C. §112, have been rendered moot.

The patentability of the presently claimed invention, as applied to the new claims set forth above, over the disclosures of the references relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Thus, the rejection of claims 1-4, 6-11 and 35-36 under 35 U.S.C. §102(b) as being anticipated by Mulder (US '826) is respectfully traversed.

This reference discloses the use of lecithins, such as hydrolyzed lecithins (see column 1, lines 60-65) for coating fruits and vegetables. It also suggests using fungicides and/or bactericides in combination with the emulsion which it describes (column 5, lines 1-3).

However, referring to the new claims set forth above, Mulder fails to teach, or suggest, a process comprising:

- carrying out physical treatment by means of heat or cold, and
- applying lecithins and/or derivatives to reduce the phytotoxicity of said heat and/or cold.

Similarly, Mulder does not teach or suggest a process comprising:

- applying treatment agents selected from foliar fertilisers based on calcium

- chloride, tolyfluanid, diphenylamine, orthophenylphenol, imazalil, ethoxyquine, hydroxyl-function terpenes having antioxidant and/or fungicidal functions and applying lecithins and/or derivatives to reduce the phytotoxicity of the treatment agent.

Claim 1 was the only independent claim subject to the rejection for anticipation based on the Mulder reference. New claim 39 corresponds to claim 1, except as noted above. Since claim 39 is not anticipated by Mulder, all of the claims dependent thereon, corresponding to the rejected claims, are also not anticipated by this reference.

Applicant also notes that new claim 67, corresponding to original claim 35, now requires mixing the treatment agent(s) with an oil base, and for this additional reason, is not anticipated by the Mulder reference.

The rejection of claims 13-17, 23-24, 26-27, 30-31, 33 and 35-38 under 35 U.S.C. §102(b) as being anticipated by Garcia-Mina et al. (EP '070) is respectfully traversed.

This reference discloses a composition comprising eugenol with thymol and/or cinnamaldehyde, and essential oils, a surface active, and an oligosaccharide for post-harvest treatment of fruit and vegetables.

Lecithins are only mentioned as one of many products listed as a surface active. As a result, the combination of lecithins with the chemical treatment agents presently recited in new claim 39 is not specifically disclosed in this reference.

New claim 47, corresponding to original claim 13, requires an oil base, and is therefore not anticipated by the Garcia-Mina et al. reference. Accordingly, all of the claims which are dependent on claim 47 are not anticipated by this reference.

New claim 65, corresponding to original claim 33, requires a physical treatment by means of heat or cold, and therefore is not anticipated by Garcia-Mina et al.

New claim 67, corresponding to original claim 35, requires mixing the treatment agent(s) with an oil base, and therefore is not anticipated by this reference.

All of the rejections of the claims under 35 U.S.C. §103(a) as set forth in items 12-15 of the Office Action are respectfully traversed.

Initially, the comments set forth above concerning the Mulder and Garcia-Mina et al. references are equally applicable to these rejections.

The problem solved by the present invention is to reduce the phytotoxicity of the specifically defined physical and or chemical treatments of fruits and vegetables by means of lecithins.

The Mulder reference discloses a method for coating fruits and vegetables with lecithins to maintain the quality of the products. It does not suggest that lecithins could be useful to reduce phytotoxicity due to the specific physical or chemical treatments as recited in new claim 39.

The combinations of Mulder, Garcia-Mina et al. and/or Schur (US '551) in items 13 and 15 also do not lead to the claimed invention. Indeed, while each of these references mentions lecithins, it is for a different purpose: either for maintaining the quality of the products, or as a secondary surface active ingredient in a composition or as emulsifying agent.

It was not obvious to try a method to reduce the phytotoxicity of the specifically defined physical and or chemical treatments of fruits and vegetables by applying lecithins to them.

The present invention and the extent of phytoprotective effect of lecithins towards heat and cold and the specifically recited treatment agents, was not predictable in view of the cited prior art.

Experimental data in the instant specification show that:

- lecithins reduces by more than 50% phytotoxicity brought by cold on apples (Examples 3 and 6) and oranges (Example 7), and
- lecithins practically eliminates the phytotoxicity due to eugenol (Example 5 and Comparative example 4).

One of ordinary skilled in the art, after considering the references, would not have expected that lecithins could reduce phytotoxicity due to physical and chemicals treatments to such an extent, and would not have been motivated to carry out the claimed process/method.

For these reasons, Applicant takes the position that the presently claimed invention is clearly patentable over the applied references.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of objection and rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

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By:

A handwritten signature in black ink, appearing to read "Michael R. Davis", written over a horizontal line.

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